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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,990	10/22/2001	Peter David Davis	U 013588-9	1813

140 7590 08/29/2005

LADAS & PARRY  
26 WEST 61ST STREET  
NEW YORK, NY 10023

EXAMINER
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AULAKH, CHARANJIT

ART UNIT	PAPER NUMBER
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1625

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

09/890,990

### Applicant(s)

DAVIS, PETER DAVID

### Examiner

Charanjit S. Aulakh

### Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21, 23 and 26-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21, 35-38 and 40 is/are rejected.
- 7) ☒ Claim(s) 23, 26-34 and 39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. According to paper filed on Aug. 12, 2005, the applicants have filed a RCE; canceled claims 24 and 25 and furthermore, have amended claims 21, 31, 33 and 38.
2. Claims 21, 23 and 26-40 are now pending in the application.

### ***Response to Arguments***

3. Applicant's arguments filed on Aug. 12, 2005 have been fully considered but they are not persuasive regarding some indefiniteness rejections. In regard to claims 36-38 and 40, the applicants have not amended claims to use the word mammal or animal at both places in the same claim. The instant claims still use the word—mammal—for inducing necrosis and the word –animal—for administration. In regard to claim 21, it is still not clear how the two moieties are linked. The applicants have amended claim to insert – any available valency of A--. The claim is still indefinite since it is not clear whether it is linked to one of the variables ( R1-R6), specific phenyl ring or the carbon atom linking two phenyl groups. Also, the value of atom is still not defined. Is it different from variable X?

### ***Conclusion***

4. Rejection of claims 21, 36-38 and 40 under 35 U.S.C. 112, second paragraph is maintained for the reasons of record.

### **NEW GROUNDS OF REJECTION**

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 21 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 is directed to compound of formula AXB where the value of X is defined now. However, the claim also mentions that moieties A and B in the compound can also be coupled by a linker bond, atom or group X ( see page 3, second paragraph ). Therefore, it is not clear when the two moieties are linked by a linker bond, what is the function of variable X and is it still attached to moieties A and B? Also, the position of attachment of variable X to moiety B is also not defined. It is also not clear whether the value of atom is different from that of variable X or not?

Claim 35 is directed to a compound where first and second moieties are coupled through a linker bond. What is the function of variable X since X is always present in the compound and linked to moiety A according to claim 21.

***Allowable Subject Matter***

7. Claims 23, 26-34 and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

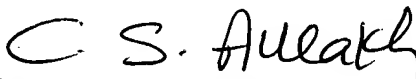
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charanjit S. Aulakh whose telephone number is

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(571)272-0678. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on (571)272-0562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Charanjit S. Aulakh  
Primary Examiner  
Art Unit 1625